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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,342	04/13/2004	Dave D. McCrory	SURG.0007	4713
26122 7590 11/15/2007 LAW OFFICES OF GARY R. STANFORD 330 W OVERLOOK MOUNTAIN RD BUDA, TX 78610			EXAMINER KENDALL, CHUCK O	
			ART UNIT 2192	PAPER NUMBER
			MAIL DATE 11/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,342

Applicant(s)

MCCRORY ET AL.

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This action is in response to Application filed 08/29/07.
2. Claims 1 – 36 have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 4 and 20 – 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Probert jr. et al. USPN 6,549,918 B1.

Regarding claim 1, Probert discloses a conversion system for converting a source disk image supporting a first hardware configuration into a target disk image supporting a second and different hardware configuration, comprising:

a first server that mounts the source disk image as a target disk drive (6:50 – 55, see server or remote computer);

a repository that stores information and files useful for supporting the second hardware configuration (3:65 – 67, see persistent store);

a rules library that facilitates conversion of hardware specific attributes in accordance with an external introspection process (3:23 – 25, see dynamic rules) ; and

a conversion engine, executed on said first server and interfaced with said repository and said rules library, that performs said EIP by examining the source disk image on said target disk drive to determine modifications to convert to the target disk image (4:25 – 40, see filter driver).

Regarding claim 2, the conversion system of claim 1, wherein a target profile is retrieved from said repository and used to determine said modifications (3:50 – 60 and 7:40 – 45).

Regarding claim 3, the conversion system of claim 1, wherein said conversion engine includes a profiler tool that generates a target profile when executed on a target server having the second hardware configuration, wherein said target profile is used to determine said modifications (9:10 – 15).

Regarding claim 4, the conversion system of claim 1, wherein said conversion engine includes an inspector tool that examines the source disk image to generate a source profile (7:35 – 45, see filter driver).

Regarding claim 20, the method version of claim 1, see rationale above as previously discussed.

Regarding claim 21, the method version of claim 2, see rationale above as previously discussed.

Regarding claim 22, the method version of claim 3, see rationale above as previously discussed.

Regarding claim 23, the method version of claim 4, see rationale above as previously discussed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 – 19 and 24 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Probert jr. et al. USPN 6,549,918 B1 as applied in claim 1, in view of Price US 6,269,474.

Regarding claim 5, Probert discloses all the claimed limitations as applied in claim 4 above. Probert doesn't expressly disclose the, wherein said conversion engine includes a comparator tool that compares said source profile with a target profile incorporating information of the second hardware configuration. However, Price discloses comparing the instructions and converting it to the new source code (14:55 – 15:15).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Probert and Price, because it would enable converting to the specific configuration of the target hardware.

Regarding claim 6, Price further discloses the conversion system of claim 1, wherein said conversion engine includes a simulator tool that simulates installations on said target disk drive and generates conversion data (Price, 22:30 – 45).

Regarding claim 7, Price further discloses the conversion system of claim 1, wherein said conversion engine includes an assembler tool that generates a conversion plan that incorporates said modifications (Price, 23:25 – 40).

Regarding claim 8, Price further the conversion system of claim 7, wherein said conversion engine includes a conversion tool that executes said conversion plan to make said modifications to the source disk image to achieve said target disk image (Price, 23:40 – 50).

Regarding claim 9, Price further the conversion system of claim 8, wherein said conversion plan is configured to remove existing hardware configuration information and to add new hardware configuration information (Price, 23:40 – 50).

Regarding claim 10, the conversion system of claim 9, wherein said conversion plan is configured to add and reconcile signature information (Price 23:40 – 55, see specification modification).

Regarding claim 11, the conversion system of claim 1, wherein said conversion engine conducts a test boot procedure that simulates booting a target server configured

according to the second hardware configuration and mounted with said target disk drive including said modifications (Price, 23:25 – 45).

Regarding claim 12, the conversion system of claim 1, wherein a selected one of the source and target disk images is a hardware-neutral image (Price, FIGURE. 6b, see object code for neutral image).

Regarding claim 13. The conversion system of claim 1, further comprising an image library storing a master of the source disk image, wherein said image library is communicatively coupled to said first server (Probert, FIG. 2, 226 see file system sever, which contains files to be converted).

Regarding claim 14, the conversion system of claim 1, wherein said repository stores at least one stock conversion plan retrievable by said conversion engine and that incorporates at least a portion of said modifications to convert the source disk image to the target disk image (Price, 23:25 – 45).

Regarding claim 15, Probert discloses the conversion system of claim 1, further comprising:

a second server communicatively coupled to said first server, wherein the source disk image is mounted to said second server as said target disk drive (FIG. 2, shows a network). Probert doesn't expressly disclose wherein the said conversion engine including a master conversion engine and configured to examine the source disk image on said target disk drive to generate a source profile, to send said source profile to said master conversion engine, and to generate said conversion plan and wherein said second server forwards said conversion plan to said second server. However,

However, Price discloses comparing the instructions and converting it to the new source code (14:55 – 15:15) as well as a conversion plan (specification modification) in (Price 23:40 – 55, see specification modification).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Probert and Price, because it would enable converting to the specific configuration of the target hardware.

Regarding claim 16, the conversion system of claim 15, wherein said master conversion engine comprises:

a comparator tool that compares said source profile with a target profile to determine conversion information (Price, 4:40 – 50); and

an assembler tool that assembles said conversion plan using said conversion information and said repository (Price, 23:25 – 40).

Regarding claim 17, the conversion system of claim 16, wherein said master conversion engine further comprises a simulator tool that simulates installations on said target disk drive and generates additional conversion data used to determine said conversion plan (Price, 22:30 – 45).

Regarding claim 18, the conversion system of claim 16, wherein said remote conversion engine comprises:

a profiler tool that examines the configuration of said second server to generate said target profile, wherein said second server forwards said target profile to said first server (9:10 – 15);

an inspector tool that examines the source disk image on said target disk drive to generate said source profile (Probert, see filter et seq.) and

a conversion tool that executes said conversion plan to make said modifications to said target disk drive (Price, 14:55 – 15:15).

Regarding claim 19, the conversion system of claim 15, wherein said repository stores a plurality of stock conversion plans retrievable by said master conversion engine (Price 23:40 – 55, see specification modification).

Regarding claim 24, the method version of claim 5, see rationale above as previously discussed.

Regarding claim 25, the method version of claim 6, see rationale above as previously discussed.

Regarding claim 26, the method version of claim 7, see rationale above as previously discussed.

Regarding claim 27, the method version of claim 8, see rationale above as previously discussed.

Regarding claim 28, the method version of claim 9, see rationale above as previously discussed.

Regarding claim 29, the method version of claim 10, see rationale above as previously discussed.

Regarding claim 30, the method version of claim 13, see rationale above as previously discussed.

Art Unit: 2192

Regarding claim 31, the method version of claim 8, see rationale above as previously discussed.

Regarding claim 32, the method version of claim 15, see rationale above as previously discussed.

Regarding claim 33, the method version of claim 5, see rationale above as previously discussed.

Regarding claim 34, the method version of claim 6, see rationale above as previously discussed.

Regarding claim 35, the method version of claim 15, see rationale above as previously discussed.

Regarding claim 36, the method of claim 32, further comprising storing a plurality of stock conversion plans retrievable by the master conversion engine (Price, 23:25 – 40, shows specification modification in phase IIB which is stored in the database).

Response to Arguments

Applicant's arguments with respect to claims 1 – 36 have been considered but are moot in view of the new ground(s) of rejection.

Correspondence information

Art Unit: 2192

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.

Chuck Kendall 11/13/08